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CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION REAUTHORIZATION ACT

FEBRUARY 10, 2022.—Ordered to be printed

Mr. MANCHIN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2158]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2158), to extend the authorization for the Cape Cod National Seashore Advisory Commission, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

The amendment is as follows:

Strike section 2 and insert the following:

SEC. 2. CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION.

Effective September 26, 2018, section 8 of Public Law 87-126 (16 U.S.C. 459b-7) is amended—

- (1) in subsection (a), in the second sentence, by striking “2018” and inserting “2029”;
- (2) by striking subsection (g); and
- (3) by redesignating subsection (h) as subsection (g).

PURPOSE

The purpose of S. 2158 is to reauthorize the Cape Cod National Seashore Advisory Commission through September 26, 2029.

BACKGROUND AND NEED

The Cape Cod National Seashore Advisory Commission was first authorized in 1961. The purpose of the commission is to consult with the National Park Service about matters relating to the development of Cape Cod National Seashore and specific sections of the

Act establishing the seashore. Recent issues the Commission has addressed include shore bird management, the impacts of climate change on park infrastructure, and the expiration of several reservations of use and occupancy. Commissioners are appointed by the Secretary of the Interior and represent the six towns within the seashore boundary, plus Barnstable County, the Commonwealth of Massachusetts, and the Secretary of the Interior. The legislative authority of the advisory commission expired on September 26, 2018.

S. 2158 reauthorizes the advisory commission, effective September 26, 2018, through September 26, 2029.

LEGISLATIVE HISTORY

Senators Markey and Warren introduced S. 2158 on June 22, 2021. The Subcommittee on National Parks held a hearing on the bill on October 6, 2021. Representatives DeGette, Neguse, Crow, and Perlmutter introduced a related bill, H.R. 803, on February 4, 2021. H.R. 803 passed the House on February 26, 2021, by a roll call vote of 227 yeas to 200 nays. The bill was received in the Senate on March 2, 2021, and was referred to the Committee on Energy and Natural Resources.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 18, 2021, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2158, as amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2158, the Committee adopted an amendment requested by the Department of the Interior that deleted a requirement in section 8(g) of the national seashore's enabling legislation (16 U.S.C. 459b-7(g)), which prohibited the issuance of permits for commercial or industrial use of property located within the seashore or the establishment of any public use area for recreational activity without the advice of the Commission.

SUMMARY

S. 2158 amends Public Law 87-126 to change the termination date for the Commission from September 26, 2018, to September 26, 2029, and deletes section 8(g) of that law, which prohibited the issuance of permits for commercial or industrial use of property located within the seashore or the establishment of any public use area for recreational activity without the advice of the Commission.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office has not estimated the costs of S. 2158 as passed by the Senate. The Committee has requested, but has not yet received, the Congressional Budget Office's estimate of the cost of S. 2158 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2158. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 2158, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2158, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the October 6, 2021, hearing on S. 2158 follows:

**STATEMENT OF JOY BEASLEY, ASSOCIATE DIRECTOR FOR
CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NA-
TIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTE-
RIOR**

Chairman King, Ranking Member Daines, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 2158 to extend the authorization for the Cape Cod National Seashore Advisory Commission (Commission).

The Department supports S. 2158 with one recommended technical change.

The bill would reauthorize the Commission until September 26, 2029, retroactive to September 26, 2018, the date that the Commission's authority to operate expired. The retroactive extension included in the bill would enable the Commission to function with the same charter it had previously. There would be no new administrative costs associated with reauthorization of the Commission.

The Commission was originally authorized in 1961 as a part of Public Law 87–126, Cape Cod National Seashore's enabling legislation, and began operation in 1966. It has been legislatively and administratively reestablished and amended several times. The Commission was last extended for a ten-year period by Public Law 111–11 in 2009.

The Commission is an exceptional example within the National Park System of a partner in cooperative land stewardship. Its purpose is to advise park management on questions relating to municipal and private land ownership and occupancy inside the seashore, and on the management of recreational activities. Membership consists of

one representative from each of the six Lower Cape towns, two from the Commonwealth of Massachusetts, one from Barnstable County, and one selected by the Secretary of the Interior.

The seashore, located in eastern Massachusetts, involves a unique pattern of land ownership and management. The six Lower Cape towns, from whose lands the Cape Cod National Seashore was carved, retain ownership of numerous parcels within the park including ponds, beaches, parking lots and roads. In addition, more than 600 parcels inside the park are privately owned. Under a unique landowner arrangement, sometimes referred to as the 'Cape Cod Model,' many of these parcels are expected to remain in private hands.

Activities on these lands can have profound effects on protected resources within the seashore, creating a need for constructive and productive dialogue among land-owners and park managers. The multiplicity of interests to which the park superintendent must respond, requires effective public and community involvement that the Commission effectively provides.

Before its authority to operate expired on September 26, 2018, the Commission was an asset that enhanced and encouraged communication between park managers and local communities and had established an excellent reputation as a facilitator of vital community dialogue. Frequent use of subcommittees allows local opinion leaders to remain involved. At the same time, it permitted numerous parties to have direct access to park management through consultation.

In its recent past, the Commission has addressed such contentious issues as: shore bird management, kite boarding, the impacts of climate change on park infrastructure, and the expiration of several reservations of use and occupancy. Passage of this bill would enable the Commission to continue this important role.

As mentioned above, the Department supports S. 2158 with one recommended technical change to the Commission's statutory role. The law that established the Commission [16 U.S.C. 459b-7(g)] states that no permit for the commercial or industrial use of property located within the seashore shall be issued, nor shall any public use area for recreational activity be established within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought. We recommend this provision be struck as it is unusual for an advisory commission to have this kind of statutory role in park management decisions.

Chairman King, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S.

2158, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Law 87-126

AN ACT To provide for the establishment of Cape Cod National Seashore.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b), is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

* * * * *

Sec. 8. (a) There is established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall terminate September 26, 2029 [2018].

* * * * *

[(g) No permit for the commercial or industrial use of property located within the seashore shall be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.]

[(h)](g) Any member of the Advisory Commission appointed under this Act shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99) except as otherwise specified in subsection (2) of this section.

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